HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 17110 OF 2003

DATED: 23.1.2006

Between:

S.K. Shareef

… Petitioner

and

Andhra Pradesh Power Generation

Corporation Limited and another

… Respondents

ORAL ORDER:

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Petitioner is an employee of the A.P. Genco. By proccedings dated 9.1.2003 he was placed under suspension pending enquiry on the ground of having committed a misconduct which was also the subject matter of Cr.No.187 of 2002 on the file of the I Town Plice Station, Godavarikhani, whereat he was arraigned for an offence punishable under Section 498-A of IPC and Section 4 of the Dowry Prohibition Act. By another proceedings dated 23.1.2003, disciplinary proceedings

were initiated against him. Complaining that neither the suspension nor the initiation of disciplinary proceedings is valid nor constitutes rational exercise of administrative discretion, the writ petition is filed.

The substratum of the petitioner's case is that simultaneous prosecution and disciplinary proceedings are impermissible.

The law is otherwise. Serious allegations have been leveled against the petitioner and therefore if the employer considered it appropriate to place him under suspension, no case for interdiction or interference with such exercise of discretion is made out.

There is no principle of law which unequivocally mandates that a departmental enquiry cannot be conducted during the pendency of a prosecution. The petitioner was being prosecuted for offences punishable under the Dowry Prohibition Act and on allegations of dowry harassment under Section 498-A of IPC. In the departmental inquiry he is alleged to have contravened specific conduct regulations which prohibit taking of dowry by an employee of the A.P. Genco. There is no principle which disentitles the employer to proceed against an employee for a conduct allegedly in violation of conduct regulations which may also be an offence under any other law.

On the aforesaid analysis, this court finds no ground for interference. Learned counsel for the petitioner states that the petitioner has already made a representation dated 28.7.2004 to the 2nd respondent-disciplinary authority bringing subsequent developments to the notice of the 2nd respondent and seeking dropping of disciplinary proceedings. If such representation is made, the same shall be considered by the 2nd respondent and an appropriate decision taken. There are however no merits in the writ petition.

Writ Petition is dismissed. There shall however be no order as to costs.

GODA RAGHURAM, J

Date: 23.1.2006

cvm